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## GENERAL NOTICE

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### NOTICE 985 OF 2009

#### DEPARTMENT OF COMMUNICATIONS

#### NOTICE OF INTRODUCTION OF THE SOUTH AFRICAN POST OFFICE BILL INTO PARLIAMENT

The Department of Communications intends introducing the South African Post Office Bill into Parliament before end of 2009. Written comments on the proposed Bill must be received within 30 days of the date of publication of this notice (i.e. 02 September 2009) at any of the following addresses:

For attention:           Project Manager  
                                Postal Policy Directorate  
                                Department of Communications;

Post to:                   Private Bag X860  
                                Pretoria  
                                0001

or deliver to:           First Floor, Block A3  
                                iParioli Office Park  
                                399 Duncan Street  
                                Hatfield

or fax to:                (012) 427 8059

fax                       086 6822810

or e-mail to:            [sapobill@doc.gov.za](mailto:sapobill@doc.gov.za)

Please note that comments received after the closing date may be disregarded

Ms Phindile Dlamini can be reached at tel. (012) 427 8169/ 7017 for any enquiries

The Bill and consultation document can be obtained at the Department's website: [www.doc.gov.za](http://www.doc.gov.za) or at Government Printers.

REPUBLIC OF SOUTH AFRICA

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**SOUTH AFRICAN POST OFFICE BILL**

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(As introduced in the National Assembly as section 75 Bill, explanatory summary of Bill published  
Gazette No. of 2009)

(The English text of the Bill is the official text of the Bill)

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(Minister of Communications)

[B 01----2009]

## **BILL**

**To provide for the repeal of the Post Office Act (No. 44 of 1958) and to provide anew provisions regarding the governance and the structure of the Postal Company, and provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:-

### **ARRANGEMENT OF SECTIONS**

1. Definitions
2. Objects of the Act
3. Ownership of the Postal Company
4. Functions of the Postal Company
5. Government Support
6. Appointment of the Board and control of the Postal Company
7. Disqualification
8. Delegation
9. Removal from office of members of the Board
10. Meetings of the Board
11. Responsibilities of the Board
12. Submission of reports and business plans
13. Board Committees
13. Remuneration of members of Board
15. Advisory committees
16. Appointment of Senior Management
17. Responsibilities of the Senior Management
18. Expenditure by Postal Company

19. Publication and keeping of accounts of the Postal Company
20. Application of public finance management act
21. Inspection of accounts and documents by the Minister
22. Appointment of independent External Auditor
23. Operational Divisions of the Postal Company
24. Power of Minister to make policies and regulations
25. Limitation of liability
26. Offences and Penalties
27. Repeal of laws
28. Short Title and commencement date

### Definitions

1. In this Act, unless the context otherwise indicates—

“**Authority**” means the Independent Communications Authority of South Africa established by section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

“**Board**” means the board of director’s postal company as constituted from time to time;

“**Companies Act**” means the companies act, 1973 (Act No. 16 of 1973);

“**Department**” means the department of communications;

“**Director**”- **General**” means the officer occupying the post with that designation on the fixed establishment of the Department;

“**Executive member**” means executive member of the board;

“**Family**” means members of the same household related by blood, marriage or adoption, (including but not limited to parents, spouses and children) siblings and descendants of siblings;

“**Financial statement**” means statements consisting of at least a balance sheet, an income statement, a cash flow statement and other statements that may be prescribed and any notes to these statements;

“**Minister**” means the Minister charged with the administration of the Department;

“**Member**” means an executive and non executive member of the board;

“**Non Reserved postal services**” means non reserved postal services contemplated in schedule 2 of the Postal Services Act, 1998 (Act No. 124 of 1998);

“**Non Executive Member**” means non-executive member of the Board;

“**Postal Company**” means the South African Post Office Limited;

“**Post Office**” includes any house, building, room, vehicle, place or structure where postal articles are received, sorted, delivered, made up or dispatched or which is used for any other purpose in connection with the rendering of any postal, savings, money transfers or other services by the postal company and any pillar box or for the reception of postal articles;

“**Prescribed**” means prescribed by or under this Act;

“**PFMA**” means the public Finance Management Act, 999 (Act No. 1 of 1999);

“**Reserved postal services**” means the reserved postal services contemplated in schedule 1 of the Postal Services Act;

**“Regulation”** means regulation under this Act;

**“Staff”** means the staff of the Postal Company;

**“This Act”** means the South African Post Office Act, including regulations promulgated hereunder;

### **Objects of Act**

2. (1) The object of this Act is to provide for the governance of the postal company in the Republic and in the public interest and for that purpose to –
- (a) to provide for the governance of the Postal company;
  - (b) contribute to democracy, development of society, gender equality, nation building, provision of education and strengthening the spiritual and moral fiber of society;
  - (c) safeguard, enrich and strengthen the cultural, political, social and economic fabric of South Africa;
  - (d) encourage investment in the postal sector;
  - (e) provide for a two tier reserved and non reserved postal services;
  - (f) ensure the provision of universal and affordable postal services;
  - (g) ensure a wide range of postal services in the interest of the economic growth and the development of the Republic;
  - (h) encourage the development of human resources and capacity building within the postal industry especially among the historically disadvantaged groups

## Ownership

3. (1) The Postal Company must have a share capital as contemplated in section 19 of the Company's Act with the Minister as its sole shareholder on behalf of Government;
- (2) The Minister shall exercise all rights attached to such shares on behalf of the Government;
- (3) The Postal Company shall be deemed a public company incorporated in terms of the Companies Act, to be known as the South African Post Office Limited;
- (4) The Postal Company must have articles of association providing, amongst other things, that the affairs of the company must be managed by a board of directors appointed by the Minister.
- (5) Government may dispose of its share or any portion thereof only after having offered the shares to be disposed of, to the postal company on the same conditions of the proposed disposal, and the postal company having refused to buy such shares.

## Functions of Postal Company

4. (1) The Postal company shall have the powers to enable it to realize its objectives as set out in section 2, except such specific powers as are expressly excluded or qualified in its memorandum of association or this Act, including the power to —
  - (a) purchase or acquire in any way land, buildings, agencies, equipment, stock and every other kind or description of movable and immovable property;
  - (b) to manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property and assets;

- (c) to apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trade marks, concessions or other rights and to deal with and alienate them;
- (d) to do any such other act as it may be authorized to do under this Act.

### **Government Support**

5. (1) The Minister may in consultation with the Minister of Finance, out of money appropriated for the purpose, grant an annual subsidy to the Postal Company in respect of normal expenditure.
- (2) A request for a subsidy must be prepared by the Postal Company to the Minister by a date determined by the Minister in order for it to be subjected to the evaluation process for inclusion in the annual compilation and exposition of the Government's expenditure proposal for appropriation purposes.
- (3) The payment of subsidies must be for such purposes and periods and subject to such conditions as the Minister may determine in consultation with the Minister of Finance.

### **Appointment of the Board and control of the Postal Company**

6. (1) The Postal Company shall be controlled by the board of directors appointed by the Minister upon approval by the National Assembly according to the following principles, namely-
- (a) participation by the public in the nomination process;
  - (b) transparency and openness; and
  - (c) the publication of a shortlist of candidates for appointment, with due regard to the request of confidentiality by party providing the



nomination information;

- (d) the party providing the information must be given an opportunity to withdraw the information that is the subject of the confidentiality request in terms of subsection (c).

(2) The board shall consist of not less than seven but not more than fifteen members to be nominated and appointed as follows —

- (a) ten non- executive members of the board;
- (b) three members from executive members of the Postal Company, namely, the Chief Executive Officer, Chief Financial Officer and the Chief Operations Officer;
- (c) two executive directors shall be chosen from trade unions organizing in the company.

(3) In the appointment of the Board, the National Assembly must submit to the Minister a list of suitable candidates received from participation by the public in the nomination process at least one and half times the number of Board to be appointed.

(4) The National Assembly may invite technical experts to assist in the selection, evaluation and appointment process of the Board.

(5) The experts contemplated in subsection (4) may include:

- (a) a person with knowledge and experience in the industry;
- (b) a person with a legal background, knowledge of the ICT sector and competition related matters;
- (c) an academic in the field of ICT;
- (d) a representative from the labour sector; and
- (e) a representative from consumer interest.

(6) The Minister must recommend to the National Assembly, from the list contemplated in subsection (3) persons whom he or she proposes to appoint to serve on the Board.

(7) If the National Assembly is not satisfied that the persons recommended for appointment by the Minister comply with subsection (10), the National Assembly may request the Minister to review his or her recommendation.

(8) Following approval by the National Assembly of the Minister's recommendation for appointment, the Minister must appoint the Chairperson or other member as Deputy Chairperson by Notice in the gazette.

(9) The Chairperson must in writing appoint a member as Acting Chairperson to perform the functions of the Chairperson in his or her absence and where the Chairperson is unable to make an appointment the remaining members must from their number elect an acting Chairperson.

(10) Persons appointed to the Board must be persons who —

(a) are committed to fairness, freedom of expression, openness and accountability on the part of those entrusted with the governance of a public service; and

(b) when viewed collectively-

(i) are representative of a broad cross-section of the population of the Republic; and

(ii) possess suitable qualifications, expertise and experience in the field of ICT, postal policy, public policy development, law, education, marketing, finance, economics, or any other relevant expertise or qualifications.

(11) A member appointed under this section must before he or she begins to perform his or her functions, take an oath or affirm that he or she-

- (a) is committed to fairness, freedom of expression, openness and accountability; and
- (b) will uphold and protect the Constitution and the laws of the Republic, including this Act and the underlying statutes.

(12) The members of the board shall not be appointed as such for more than 2 (two) consecutive terms, unless otherwise determined by the Minister;

(13) Any person who is appointed shall advise the Minister of his or her membership of any other board, prior to his/her acceptance of the appointment;

(14) Every board member shall give in writing, notice to the Minister of all direct or indirect pecuniary interest that he/she has acquired in any business or in any body corporate carrying on any business with the Postal Company in exercise of its function;

#### **Disqualification**

7. (1) A person Shall not be appointed as a Board member if he or she —

- (a) is not a citizen of the Republic;
- (b) is not permanently resident in the Republic;
- (c) has been declared by a court to be mentally ill or disordered;
- (d) has at any time been convicted, whether in the Republic or elsewhere, of —
  - (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or
  - (ii) an offence under this Act or the underlying statutes;
- (e) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a period

of imprisonment of not less than one year without the option of a fine;

or

(f) has at any time been removed from an office of trust on an account of misconduct.

(2) A person who is subject to a disqualification contemplated in subsection (4)(a) to (d) may be nominated for appointment as a Board member, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification.

(3) The members of the Board shall be appointed for such period, not exceeding five years, as the Minister may in the case of each member determine, and any retiring member may be reappointed as a member of the Board unless removed from his or her office or disqualified as hereinafter provided.

#### **Delegation of powers**

8. The Board may from time to time delegate to the senior management of the Postal Company any of its powers under this Act in writing and may delegate any such power for such period and for such purposes and subject to such conditions and restrictions as it may deem expedient and necessary.

#### **Removal from office of the members of the board**

9. (1) A member of the board shall vacate his or her office if —

(a) he or she becomes insolvent.

(b) If he or she becomes of unsound mind ; or

(c) If he or she is absent from 3(three) consecutive meetings of the board of directors without leave from the chairperson of the board, or the Minister provided that the Minister shall have the power to grant any director's leave

for any or an indefinite, period; or

(d) If he or she is removed by the Minister by notice to the company before the expiration of his or her period.

(e) In respect of non executive director, 1 (one) month or, with the permission of the directors, earlier, after he /she has given notice in writing of his/her intention to resign; or

(f) If he /she shall pursuant to the provisions of the statutes be disqualified or cease to hold office be prohibited from acting as director; or

(g) If he/she is knowingly interested in any contact or proposed contract with the company and fails to disclose his /her interest in the manner required by the statutes; or

(h) If a majority of the directors recommend that she /he should resigns and the member accepts the recommendation.

### **Meetings of the Board**

10. (1) The members of the Board shall, not less than once in every four months, meet at such time and place and in the manner as the chairperson may from time to time determine;

(2) The Chairperson may at any time convene an extraordinary meeting of the Board to be held at a time and place and in the manner determined by him or her and shall, upon a written request of the Chief Executive Officer or two other members, convene an extraordinary meeting to be held within two weeks after the date of receipt of such request;

(3) The Board may publish the procedure to be followed at a meeting thereof by notice in the Gazette;

(4) In the absence of a published procedure under subsection (3), the person presiding at a meeting of the Board shall determine the procedure to be followed at

such meeting;

(5) The quorum for a meeting of the Board shall be two thirds of the serving Members;

(6) The decision of the majority of the members of the Board present at a meeting thereof shall constitute a decision of the Board;

(7) In the event of any equality of votes on any matter the person presiding at a meeting of the Board has a casting vote in addition to his or her deliberative vote;

(8) No decision taken by the Board or act performed under the authority of the Board shall be invalid by reason only of a casual vacancy on the Board or of the fact that any person not entitled to sit as a member of the Board sat as such a member at the time the decision was taken or the act was authorized;

(9) The Board shall cause written record of its proceedings to be kept and be submitted to the Minister within 21 days from the date of the meeting;

#### **Responsibilities of the Board**

11. (1) The Board shall be responsible for the efficient operation and administration of the postal company subject to the provisions of this Act, and in particular, and without prejudice to the generality of the foregoing, shall have the power to —

- (a) recommend the appointment and dismissal of Chief Executive Officer, who is the executive member of the Board, subject to the written approval of the Minister;
- (b) determine the general policy of the postal company in respect of the business of the postal company;
- (d) approve the annual estimates of revenue and expenditure for

the next financial year;

(e) survey all activities, financial and otherwise of the company;

(f) determine the organization and structure of the company;

(g) determine all matters concerning the purchase or sale of real estate; and

(h) make any recommendations to the Minister with regard to any increase in the issued capital of the company;

(2) The Board shall —

(a) direct and conduct the operations and business of the postal company;  
and

(b) determine and implement policies to administer this Act.

(3) After allowing for the expenses of operations during each year, and making provision for the statutory reserve account, bad and doubtful debts, depreciation of fixed assets and such other contingencies, the Board shall determine the amount and declaration of any dividends for that year, which dividends shall be declared and paid into the state Revenue fund.

#### **Submissions of annual reports and business plan**

12. (1) The Board shall submit:

(a) business plan to the Minister for approval by no later than 90 (ninety) days prior to the commencement of the year which the business plan covers;

(b) annual reports to the Minister by no later than 90 (ninety) days after the end of the financial year

### **Board Committees**

13. (1) The board shall form the following committees: the audit committee, remuneration committee, and human resource review committee or any other committee comprising of board members or any other persons to assist in the performance of its functions, particularly the discharge of its obligations;

(2) The board may, in its discretion, delegate any of its powers, duties and functions to persons or committees who or which, in turn, shall, to the extent authorised by the board in terms of any such delegation, have the power of sub delegate;

(3) Any authority so delegated can only be revoked by the board;

(4) The chairperson of any such committee shall be a member of the Board;

(5) The Board is not divested of any function or power conferred upon a committee under subsection (1);

(6) Any decision of a committee performing a function or exercising a power of the Board shall be tabled at a Board meeting and may be withdrawn or amended by the Board or referred back to such committee and shall, when it has been so withdrawn or amended, be deemed to be a decision of the Board.

### **Remuneration of members of Board**

14. A member of the Board other than the executive member of the board shall be paid for his or her services as member such remuneration and allowances out of the funds of the postal company as determined, by the Minister in writing.



### **Advisory committees**

15. The Board may appoint committees consisting of as many members of the Board, staff of the postal company, advisers to the postal company and other persons as may be deemed necessary to advise the Board in general or on any particular matter.

### **Appointment of Senior Management**

16. The Chief Executive Officer, Chief Operations Officer and Chief Financial Officer, shall be appointed by the board in consultation with the Minister and shall collectively be referred to in this Act as the Senior Management of the postal company.

### **Responsibilities of the Senior Management**

17. (1) Senior Management of the company shall be responsible for the following:
- (a) day to day affairs of the postal company, subject to the directions of the Board; and
  - (b) administrative control over the staff appointed
  - (c) on such conditions as the Board may determine, appoint managers and staff or contract with any person to supply such services as may be necessary to perform the work connected with the business of the postal company;
  - (d) pay staff and/or advisers appointed in terms of such remuneration, allowances, subsidies and other service benefits in accordance with a remuneration structure as may be determined from time to time by senior management in consultation with the Board, subject to the approval of the Minister.

**Expenditure by postal company on administration**

18. (1) The salaries and allowances of the Senior Management and of the staff and other persons employed by the company, and all other expenditure incurred by the postal company, shall be paid out of its funds.

**Publication and keeping of accounts of the postal company**

19. (1) The Chief Executive Officer shall cause to be kept full and proper accounts and records in relation to all operations of the postal company and shall within 3 months after the thirty-first day of March each year, transmit to the Minister, to be published in the Gazette, the annual audited financial statements of the postal company together with a report showing;

- (a) the assets and liabilities of the company as on the said date; and
- (b) the profit and loss account for the preceding year.

(2) The independent external auditor appointed in terms of section 58 (1) (b) of the public Finance Management Act must audit the annual financial statements within 3 months after the period referred to in subsection (1) above and submit the auditor's report in terms of section 61 of the Public Finance Management Act;

(3) In addition to the audited financial statements referred to in sub-section 1, the Board shall submit to the Minister and/or the Minister of Finance from time to time such other accounts, reports and statements as the Minister and/or the Minister of Finance may require;

(4) The Minister shall, submit the annual audited financial statements to Parliament Within 30 days after receipt of the auditor's report it shall be laid before Parliament, if parliament is in ordinary session, or, if parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session, a copy of which shall be provided by the Chief Executive Officer to the Registrar and the

National Treasury.

### **Application of Public Finance Management Act**

20. Provisions of the Public Finance Management Act shall be applicable to the Postal Company and its business.

### **Inspection of accounts and documents by Minister**

21. The Minister or any officer in the public service authorised by him or her in writing, shall have full access to all the accounts, documents and papers of the postal company, and the Board shall at all times furnish to him or her all such information as he or she may reasonably require.

### **Appointment of independent external auditor**

22. The Board shall appoint an independent external auditor as the auditor of the Postal Company on the same basis as set out in the Companies Act.

### **Operational Divisions of the Postal Company**

23. (1) The postal company must consist of two separate operational divisions, namely-

- (a) Reserved services; and
- (b) Non – reserved services

(2) The reserved and non reserved divisions must have a separate set of financial records and accounts to be kept in respect of each such division;

(3) The Postal Company must not cross- subsidize non-reserved services from the reserved services.

### **Power of Minister to make policies and regulations**

24. (1) The Minister may make, policies and regulations, consistent with the objects of this Act and any other policy which may be necessary for the application of this Act as to all or any of the following matters, namely—

- (a) the meetings and proceedings of the Board;
  - (b) the rights, privileges and duties of the staff, and the duties of other persons employed by the Postal Company, and the manner in which such duties shall be performed;
  - (c) the establishment of agencies;
  - (d) the management of the Postal Company and its agencies;
  - (e) the specific cases in which property given as security shall be insured;
  - (f) generally for fully and effectually carrying out and giving effect to the objects and purposes and for guarding against violations of this Act.
- (2) such policies and regulations may be made by the Minister also on recommendation by the Board.

### **Limitation of liability**

25. No liability shall attach to the Government, the postal company or, either in his or her official or personal capacity, the Minister or any member of the Board or employee, agent of the postal company, for any loss sustained by or damage caused to any person as a result of anything done or omitted by the Minister, such member of the Board or such other employee, agent of the Postal Company, unless he/she was negligent.

### **Offences and penalties**

26. (1) If any member of the staff or of the Board, or any adviser or agent of the

Postal Company, directly or indirectly receive any fee or reward, other than is authorized under this Act from any person in respect of or in connection with any transaction with or in relation to the Postal Company, he or she shall be guilty of an offence and be subjected to the normal legal process;

(2) Any person who, in respect of or in connection with any transaction with or in relation to the Postal Company, bribes or attempts to bribe, or corruptly influences or attempts corruptly to influence or any member of the Board or of the staff, or an adviser or agent of the Postal Company, shall be guilty of an offence and be subjected to the normal legal process;

(3) Any person who, having any interest in any transaction under this Act, acts as an adviser in connection with such transaction, or sits at any meeting of the Board and votes upon any resolution having reference to such transaction, shall be guilty of an offence and be subjected to the normal legal process .

#### **Repeal of laws**

27. The laws mentioned in the First Schedule to this Act are hereby repealed to the extent set out in the third column of that Schedule.

#### **Short title and commencement date**

28. This Act shall be called the South African Post Office Act, and shall come into operation upon a date to be fixed by the President by proclamation in the Gazette

**Schedule****LAWS REPEALED AND AMENDED**

<b>No. And Year of Law</b>	<b>Title and Subject of Law</b>	<b>Extent of Repeal</b>
Act No.124 of 1998	Postal Services Act, 1998	Section 29
Act No. 44 of 1958	Post Office Act, 1958	The Whole

**CONSULTATION DOCUMENT**  
**PROPOSED SOUTH AFRICAN POST OFFICE ACT,**  
**2009**

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## PREFACE

Members of the Public are hereby invited to make written comments on the draft South African Post Office Bill. The Bill will be available electronically on the DoC website.

This consultation document has identified the best way that will address, the issues of corporate governance of who and how the South African Post office will be managed. The Bill is a proposal wherein your inputs will assist in the finalization of the document

Members of the public must submit written comments by no later than 16h00 on the 02 September 2009.

The Director General:

Department of Communications

Private Bag X 860

Pretoria

0001

Comments may be –

Posted by registered mail to the private bag mentioned above

Emailed to [Sapobill@doc.gov.za](mailto:Sapobill@doc.gov.za)

Any enquiries can be made to Phendile Dlamini Tel 012 427 8169

Fax: 012 427 8159

An electronic version of this consultation document and the draft bill can be accessed on the internet at: [www.doc.gov.za](http://www.doc.gov.za). For further information, the Department can be contacted at: 012 427 8106/8529/7017

## 1. Background

The South African Post Office is established in terms of the Post Office Act no 44 of 1958 which governed both the Post and Telecommunications services. In 1991 the Post Office Amendment Act (1991) separated the traditionally combined Post and telecommunication services provided through a state department and created two separate independent corporatized companies.

Telkom SA Ltd was established to provide telecommunications services and the South African Post Office Ltd to provide postal services. With the separation of the entities they became commercialization companies and the Post Office became a wholly owned government company with a board of directors and management board with requirements associated with private companies in terms of the Post Office Act.

The South African Post Office as a legal entity is not only obliged to balance revenue and expenditure but also to make profit. The Company is responsible for meeting its universal service obligation and for shouldering all of its obligations and its liabilities for commercial risks. The company is given a high level of managerial autonomy and flexibility.

The explicit separation of ownership and management responsibility through the board of directors is designed to insulate the post office from a non commercial pressure and constraints. Despite the high level of managerial and organizational autonomy and flexibility the postal company is accountable to government, operates within the Postal Services Act No 124 of 1998, is subjected to regulatory oversight by the Independent Communications Authority Of South Africa (ICASA).

As a public company SAPO's finances are governed by the provisions of the Public Finance Management Act No 1 of 1999 (PFMA). The Minister of Communications is responsible of oversight in relation to financial issues as the Executive Authority.

SAPO has the mandate to provide basic postal services to all South Africans. With reform in the sector the mandate has been extended to include the use of ICT infrastructure as well as the offering of other services other than in the traditional postal services.

## **2 CURRENT REGULATORY FRAMEWORK**

The White Paper on Postal Policy (1996) provides for guidelines for the structure and management of the South African Board. SAPO is established in terms of the Postal services Act No 44 of 1958 and governed in terms of the Companies Act No 61 of 1973 ,the Public Finance Management Act No 1 of 1999, the articles and memorandum of association. There is currently no legislation that comprehensively deals with issues of governing the SAPO. As a company established in line with the Companies Act SAPO has to comply with this legislation in relation to the management and operational issue that apply in the company.

The Postal Services Act No 124 of 1998 provides for the postal issues operations, and does not deal with issues of shareholder governance explicitly. The Post Office Act of 1958 itself only addressed issues of corporate governance to shareholder satisfaction. It did not address the relationship between government and the Board of Directors as well as the relationship between the Board and Executive Management of the Company and how the board is appointed. Subsequent to that, it became apparent that the new law should be established to deal with issues of corporate governance of the South African Post Office.

## **3 OBJECTIVES OF THE PROPOSED POST OFFICE ACT**

The South African Post Office Bill is aimed at providing a comprehensive legal framework addressing corporate governance at SAPO in a single act focusing on SAPO as a legal entity. Government has a fundamental obligation to ensure the provision of universal service is achieved in respect of postal services. The establishment of this

legislation will put in place institutional arrangements that best foster efficiency and improve competitiveness and enhance accountability.

#### **4 SUMMARY OF THE DRAFT POST OFFICE BILL**

**The South African post office bill is summarized as follows**

##### **CONTENTS OF THE BILL**

- Preamble
- Interpretation and objects of the Act
- Ownership of the Postal Company
- Functions of the Postal Company
- Government Support
- Appointment of the Board and control of the Postal Company

##### **4.1 Preamble**

Preamble sets out the main purpose of the proposed South African Post Office Bill. The intentions are outlined in this heading

##### **4.2 Interpretation and Objects of the Bill**

This chapter provides for the interpretation of words as they are used in the legislation. It also provides for the objects of the proposed legislation and the objectives of the board of directors. The main aim is to ensure that the board

performs its function with achieving objectives set forth by the shareholder are achieved.

#### **4.3 Ownership of the Postal Company**

The chapter Provides for the ownership of the postal including the powers and functions of the owner as well as the rights attached to ownership. The responsibilities of the Postal Company, the powers and functions of the Post Office Board is to realize its objectives, setting out the of the companies main objective in line with government policy.

#### **4.4 Functions of the Postal Company**

The section provides for what type of transactions that management can perform on behalf of the company, without requesting for government approval of the company. A detailed list of the powers is outlined.

#### **4.5 Government Support**

Provision is made in this section for the company to make an application for a subsidy including which Ministers are involved in the process. The requirements which SAPO must comply with in order to get government support.

#### 4.6 Appointment of the board and control of the postal company

The section provides for the control and management of the company, requirements for the board members, the procedure to be followed in selecting applicants, number of board members to serve on the board, the number of board members. The appointment of the chairperson and the deputy chairperson of the board. Duration of the term of office including the disclosure of the board members.

#### 5 CONCLUSION

The Department believes that a comprehensive administrative and regulatory framework will ensure the government entity is managed by the board effectively and efficiently within the established legislative frameworks and promote the universal provision of postal services

The Department would therefore appreciate receiving all suggestions for improvements to the current proposal in order to develop a sound solution to the governance of the corporation.

- Commentators are requested to indicate whether members of the public support the principle of establishing legislation providing for how the SAPO should be managed.
- Also provide inputs on the process of appointing the board members.
- Inputs and comments are also requested on the structure of the board and the whether the requirements for board members are sufficient
- And any other comment that is relevant to improving the Bill